

Sisk, Richard

From: Richard Sisk <Sisk.Richard@epamail.epa.gov>
Sent: Friday, September 19, 2014 9:56 AM
To: Sisk, Richard
Subject: Fw: City's comments on the Notice of Environmental Conditions
Attachments: Property Owner Deed Notice 06-06-12.docx; Property Owner Deed Notice no sampling 06-06-12.docx

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----- Forwarded by Richard Sisk/R8/USEPA/US on 09/19/2014 09:55 AM -----

From: "Farrell, Lisa - Environmental Health" <Lisa.Farrell@denvergov.org>
To: Paula Schmittdiel/R8/USEPA/US@EPA
Cc: Bill Murray/R8/USEPA/US@EPA, Steve Wharton/R8/USEPA/US@EPA, Richard Sisk/R8/USEPA/US@EPA, "Nightengale, Alice - Environmental Health" <Alice.Nightengale@denvergov.org>, "Berardini, Jacqueline H. - Department of Law" <Jacqueline.Berardini@denvergov.org>
Date: 07/24/2012 03:02 PM
Subject: RE: City's comments on the Notice of Environmental Conditions

Hello Paula,

Our attorney has marked up the documents. However, we still do not understand what legal basis supports this approach. We cannot concur with filing notices in the Real Property records until we've had a chance to review your authority.

Following are Jackie's additional comments on the notices:

Much of the superfluous explanation language has been deleted; real estate documents are not 'persuasion' pieces, they merely put people on notice. Additionally, the language saying how long the notice will last has been deleted, since once filed, it will be on file forever. And, the notarization has also been deleted for now, although we may need to put it back in after we speak with our real estate attorneys.

Some thoughts:

- *If EPA files a notice and then remediates a property, will EPA file another document indicating the fact of remediation?*

- If other homeowners remediate at some time in the future (such as when they wish to sell), will EPA give them some acknowledgement of remediation?

If not, the property may be impaired forever, which is probably a result to be avoided.

Thank you for your patience and we look forward to further discussions of this matter.

Lisa

From: Paula Schmittiel [<mailto:Schmittiel.Paula@epamail.epa.gov>]
Sent: Tuesday, July 24, 2012 1:21 PM
To: Nightengale, Alice - Environmental Health
Cc: Bill Murray; Steve Wharton; sisk.richard@epa.gov; Farrell, Lisa - Environmental Health
Subject: City's comments on the Notice of Environmental Conditions

Alice - We have not yet received comments from the City's attorney who we understood was going to provide comments on the draft Notice of Environmental Conditions. EPA is very interested in the City's comments as we try and move forward to bringing OU-01 to a completion.

As I had mentioned a couple of weeks ago EPA would like to have a joint meeting with the City and State to discuss the Notice as well as our other thoughts on property notices for VB/I-70. Can you give us some idea as to when the City might be able to send us comments on the draft notice so that we can schedule a joint meeting soon after.

Thank you.

Paula Schmittiel
Remedial Project Manager
U.S. Environmental Protection Agency
1595 Wynkoop St.
Denver, Co 80202
303-312-6861 (office)
303-312-7151 (fax)
720-951-0795 (cell) (See attached file: *Property Owner Deed Notice no sampling 06-06-12.docx*)(See attached file: *Property Owner Deed Notice 06-06-12.docx*)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

NOTICE OF ENVIRONMENTAL CONDITIONS

The following described real property ("Property") is within the boundaries of Operable Unit 1 of the Vasquez Boulevard and Interstate 70 Superfund Site (Site), as described in the Record of Decision (ROD) dated September 25, 2003. The Property is known as _____, Denver, Colorado, [insert zip code], and described as follows:

(Insert legal description as shown in Denver records)

NOTICE is hereby given that the U.S. Environmental Protection Agency (EPA) obtained soil samples from the above described Property and those soil samples show levels of lead and/or arsenic contamination above action levels.

The levels at which the EPA determined that lead and/or arsenic in soil in residential yards present an unacceptable risk (the so-called "action levels" in the ROD) are 400 parts per million (ppm) or greater for lead and 70 ppm or greater for arsenic. At the above described Property, EPA's sampling of the surface soils found [] parts per million of arsenic and [] ppm of lead.

The records regarding sampling at the above described Property and other documents relevant to the above described real property and the Site, generally, may be reviewed or a copy requested from the U.S. Environmental Protection Agency, Region 8, Superfund Records Center, 1595 Wynkoop Street, Denver, Colorado 80202 or the U.S. Environmental Protection Agency, Region 8, Superfund Remedial Program, Remedial Project Manager, Vasquez Boulevard and Interstate 70 Superfund Site, 1595 Wynkoop Street, Denver, Colorado 80202.

United States Environmental Protection Agency

By: _____ Date: _____

Bill Murray, Director
Superfund Remedial Program
U.S. Environmental Protection Agency
Region 8

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¶ If the action levels were exceeded, the remedy selected in the ROD called for the EPA to remove 12 inches of soil and replace with clean soil. ¶

¶ At the above described real property, EPA's sampling results of the surface soils found [] parts per million of arsenic and [] ppm of lead. These levels exceed the action levels and may pose an unacceptable risk to children and adults. ¶

¶ The owners of the above described real property at the time of filing of this NOTICE were given an opportunity to have the contaminated soils on the above described real property cleaned up through a government sponsored and funded program but declined the clean up. ¶

¶ This NOTICE is to inform the public, the current occupant, and any prospective purchaser of the above described real property of these environmental conditions. ¶

¶ This NOTICE exists and shall continue until the soil contamination is removed and disposed of at an appropriate disposal facility. Soil removal must be conducted in accordance with EPA's approved plans for the Site.

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ss: ¶

County of Denver .) ¶

¶ Before me, a notary public, in and for said county and state, personally appeared Bill Murray, Director at the United States ... [1]

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State of Colorado)
) ss:
County of Denver)

Before me, a notary public, in and for said county and state, personally appeared Bill Murray, Director at the United States Environmental Protection Agency, who acknowledged to me that he did execute the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of ____, 2012.

[SEAL]

Notary Public

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

NOTICE OF POTENTIAL ENVIRONMENTAL CONDITIONS

The following described real property ("Property") is within the boundaries of Operable Unit 1 of the VB/I-70 Superfund Site (Site), as described in the Record of Decision (ROD) dated September 25, 2003. The Property is known as _____, Denver, Colorado [insert zip code], and described as follows:

(Insert legal description as shown in Denver records)

NOTICE is hereby given that the U.S. Environmental Protection Agency (EPA) has not obtained soil samples from the above described Property.

EPA obtained soil samples from over 4000 residential properties within the Site. Of this total, 833 properties showed levels of lead and/or arsenic contamination that could present unacceptable risk to or make the property unsafe for children or adults. The levels at which EPA determined that lead and/or arsenic in soil present an unacceptable risk (the so-called "action levels" in the ROD) were 400 parts per million (ppm) or greater for lead and 70 ppm or greater for arsenic.

United States Environmental Protection Agency

By: _____ Date: _____
Bill Murray, Director
Superfund Remedial Program
U.S. Environmental Protection Agency
Region 8

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Deleted: This NOTICE is to inform the public, current occupant, and any prospective purchaser that the above described real property is within the Site, that other properties within the Site have been shown to have levels of contamination that exceeded the action levels established by EPA for the Site, that EPA has been denied access to sample or investigate the above described property, and that EPA can make no conclusion regarding potential contamination at the above described real property. ¶
¶ This NOTICE exists and shall continue until soil sampling has been conducted and if contamination is found above 400 ppm for lead and/or 70 ppm arsenic, the top 12 inches of soil is removed and disposed of at an appropriate disposal facility. Soil sampling and removal must be conducted in accordance with EPA's approved plans for the Site. EPA's records regarding the above described property and other documents relevant to the above described real property and the Site, generally, may be reviewed or a copy requested from the U.S. Environmental Protection Agency, Region 8, Superfund Records Center, 1595 Wynkoop Street, Denver, Colorado 80202 or the U.S. Environmental Protection Agency, Region 8, Superfund Remedial Program, Remedial Project Manager, Vasquez Boulevard and Interstate 70 Superfund Site, 1595 Wynkoop Street, Denver, Colorado 80202. ¶
¶ The information in this Notice may represent potential environmental conditions of which a seller would have current actual knowledge and thus, should be disclosed by the seller to the buyer prior to the sale or transfer of the above described real property. ¶
Deleted: State of Colorado .) ¶ ss: ¶ County of Denver .) ¶
¶ Before me, a notary public, in and for said county and state, personally appeared Bill Murray, Director at the United States Environmental Protection Agency, who acknowledged to me that he did execute the foregoing instrument. ¶
¶ IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of ____, 2012. ¶
Deleted: ¶ ¶ [SEAL] ¶ ¶ Notary Public